

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

IN RE: )  
 )  
GEORGE WEAVER, ) CASE NO. 18-31228-KLP  
 ) CHAPTER 13  
*et ux.*, )  
 )  
Debtors. )

**OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN**  
**NOTICE OF OBJECTION TO CONFIRMATION OF PLAN**  
**AND NOTICE OF SCHEDULED HEARING ON THIS OBJECTION**

I. Notice of Objection and Notice of Hearing

PLACE OF HEARING:	DATE AND TIME OF HEARING:
Courtroom 5100 701 East Broad Street Richmond, Virginia 23219	May 23, 2018 9:10 a.m.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

II. Objection to Confirmation of Chapter 13 Plan

The United States of America, by and through undersigned counsel, on behalf of its Internal Revenue Service, hereby objects to confirmation of the proposed Chapter 13 Plan on the following grounds:

Robert P. McIntosh  
Assistant United States Attorney  
SunTrust Center  
919 East Main Street, Suite 1900  
Richmond, Virginia 23219  
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*Counsel for the United States of America*

1. The Internal Revenue Service timely filed a proof of claim setting forth the following information:

Date of Claim:	April 25, 2018
Secured Amount	\$0
Priority Amount:	\$141,830.29
General Unsecured Amount:	\$159,993.77
Total Claim Amount:	\$301,824.06

2. The debtor(s) filed a Chapter 13 plan, treating the claims of the Internal Revenue Service as follows:

	Date of Plan	Priority Amount	Secured Amount	Interest (Secured Claim)
	April 18, 2018	\$116,060.14	\$0.00	0%
	<b>Total</b>	\$116,060.14	\$0.00	0%
<b>Reference in Plan</b>		Plan ¶ 3(B)	Plan ¶ 4(D)	Plan ¶ 4(D)

3. The proposed plan does not adequately provide for the Internal Revenue Service's priority claim as required by 11 U.S.C. §1322(a)(2).<sup>1</sup> "The bankruptcy code requires that a debtor's Chapter 13 reorganization plan 'provide for full payment, in deferred cash payments, of all claims entitled to priority under Section 507 of this title, unless the holder of a particular

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<sup>1</sup> The proof of claim sets forth a priority claim in the amount of \$141,830.29. The Plan provides for a combined amount of only \$116,060.14.

claim agrees to a different treatment of such claims.’ 11 U.S.C. §1322(a)(2) (1984). Any plan lacking the requirements of § 1322(a)(2) (a full payment of priority claims) cannot be confirmed without the claim holder's consent.” Matter of Escobedo, 28 F.3d 34, 35 (7th Cir. 1994) (citing Ekeke v. United States, 133 B.R. 450 (S.D. Ill. 1991); In re Driscoll, 57 B.R. 322 (W.D. Wis. 1986); United States v. Reynolds, 38 B.R. 725 (W.D. Va. 1984)<sup>2</sup> *aff’d*, 764 F.2d 1004 (4th Cir. 1985); In re Esser, 22 B.R. 814 (E.D. Mich. 1982)).

4. The records of the Internal Revenue Service reflect the failure to file Federal tax returns for the following periods:

<u>Tax Period</u>	<u>Form</u>
12/31/2015	1040

The failure to file required tax returns renders the plan unconfirmable pursuant to §1325(a)(9).

The United States objects to confirmation until the required tax returns are filed.

WHEREFORE, the United States respectfully requests that confirmation of the proposed plan be denied.

Respectfully submitted,

TRACY DOHERTY-MCCORMICK  
Acting United States Attorney

By: /s/ Robert P. McIntosh  
Robert P. McIntosh  
Assistant United States Attorney

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<sup>2</sup> See *United States v. Reynolds*, 38 B.R. at 726 (W.D. Va. 1984) (“A Chapter 13 plan must provide for *full* payment of . . . priority claims”) (emphasis in original) *aff’d*, 764 F.2d 1004 (4th Cir. 1985).

CERTIFICATE OF SERVICE

I hereby certify that I have on this date served the foregoing upon all interested parties to this proceeding, by causing true and correct copies thereof to be placed in the United States mail, postage prepaid, addressed as follows:

George Weaver  
Kacy Weaver  
10227 Atlee Station Road  
Mechanicsville, VA 23116

I hereby certify a copy of foregoing will be filed with the United States Bankruptcy Court electronically in the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. Parties currently listed by the CM/ECF system to receive electronic notice in this case are set forth below.

Keith A. Pagano  
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Date: April 25, 2018

/s/ Robert P. McIntosh  
ROBERT P. MCINTOSH